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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,404	08/25/2003	Bryan C. Dulsky	9247-000001	2642

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EXAMINER

PHAN, HAU VAN

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,404	<b>Applicant(s)</b> DULSKY, BRYAN Q.	
	<b>Examiner</b> Hau V Phan	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-2, 10, the phrase "a large, flat panel and a house" being claimed. Therefore, it is not clear, the applicant is trying to claim the invention of the cart itself or the cart in combination with a flat panel and a house.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-7 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Graves (391,842).**

Graves in figures 1-3, discloses a wagon or a cart having a structure that can be used to collect roofing debris comprising an open top container formed generally in the shape of an inverted, truncated pyramid having its lower, smaller base closed and its

upper, larger base open and having end walls joined to inner and outer walls which are sloped, relative to the vertical, at pre-determined angles. Graves also discloses a horizontally arranged support frame (as shown in figure 3) located beneath and secured to the smaller base for supporting the container. Graves also discloses support wheels (c) rotateably connected to, and depending beneath the frame for engagement with the ground upon which the cart is supported. The wagon or the cart with the angle of the inner wall of the container being substantially the same as an angle selected for leaning a large, flat panel against the wall of a house at a location between the container and the house wall so that the panel is adapted to be arranged close to the container for directing debris dropped down upon the panel into the container.

Regarding claim 2, Graves discloses the wagon or the cart having the structure, which can be used to add a large, flat panel adapted to be leaned against the surface of a house wall at an acute angle, while resting upon the ground, and for being located between a cart and the house wall, with the angle of the panel and the angle of the inner wall of the cart being substantially the same whereby the panel may be closely adjacent to the inner wall of the cart (Noticed, a large flat panel is not part of the cart. Therefore, Graves's wagon can be used to add a plat panel for its purposed).

Regarding claim 3, Graves discloses the slope angle of the cart inner wall, which is approximately 52 degrees relative to the horizontal.

Regarding claim 4, Graves discloses the wagon or the cart, which can have a number of the carts of substantially identical construction, arranged end-to-end for positioning alongside a house wall so that the carts together form an elongated

receptacle along the house wall for debris dropped from the roof; and with large, flat, panels arranged closely adjacent to the carts and propped against the house wall at an angle approximately the same as the angularity as the inner walls of the carts.

Regarding claim 5, Graves discloses handles (an out side perimeter edge can be called a handle), which is located on the respective end walls of the carts, with the handles extending away from their respective sloped end walls for a prevent the handles on the adjacent pre-determined distance sufficient to cart end walls from interfering with or contacting the handles on the next adjacent carts.

Regarding claim 6, Graves discloses the wagon or the cart, which can have a series of large, flat panels, arranged end-to-end, and rested upon the ground and leaned at an angle against the house wall, between the carts and the house wall, and each panel being in substantial face-to-face engagement with their adjacent container walls for directing debris dropped from the roof of the house into the respective containers.

Regarding claim 7, Graves discloses the wheels, which being of a large enough diameter to support the cart at a substantial height above plantings that may be located near the house wall and with the panel angled sufficiently so that its lower portion is spaced from the house wall so that the panel straddles over plantings located closely adjacent to the house wall.

Regarding claim 10, Graves in figures 1-3, discloses a wagon or a cart having a structure that can be used to collect roofing debris comprising a box-like container having an inner and an outer wall connected to end walls, which are in turn connected

to a closed base, and with the container having an open top. The inner wall being angled, relative to the vertical, at roughly 52 degrees to the horizontal from the base floor to the open top of the container. Graves also discloses a horizontally arranged beneath the container base floor support frame secured to and arranged support wheels rotateably connected to the frame and depending beneath the frame for engagement with the ground upon which the cart is supported. Whereby the cart may be located adjacent a building wall, but spaced therefrom, so that a flat, large panel may be arranged between the cart inner wall and the building wall at an angle approximately the same as the angle of the cart inner wall whereby the cart inner wall and the panel may be arranged closely adjacent to each other and in approximately the same angular plane in order to permit debris dropped from the roof of the building upon the panel to slide down the panel and into the container.

Regarding claim 11, Graves discloses the opposite end walls of the cart being sloped at a pre-determined angle, inwardly, from the open top to the closed base floor and a manually gripable handle (an out side perimeter edge can be called a handle) mounted upon an end wall, whereby a number of substantially identical carts may be arranged end-to-end with the upper edges defining the end walls in contact with the adjacent parts of the adjacent carts and with their handles being located in the spaces formed between the adjacent end walls by the angularity of the end walls relative to each other.

***Allowable Subject Matter***

5. Claims 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wagenen discloses a wagon, Eshelman discloses a sanitary laundry truck, Coakley discloses a utility cart, Fabel discloses a servicing cart, Cline discloses a hopper and liner apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hau Phan*  
*11/2/04*

Hau V Phan  
Examiner  
Art Unit 3618

**HAU PHAN**  
**PATENT EXAMINER**